

BEFORE THE DEPARTMENT OF PUBLIC SERVICE REGULATION  
OF THE STATE OF MONTANA

In the matter of the repeal of ARM                     )  
38.2.5031 pertaining to Public Utility            )  
Executive Compensation                                )

NOTICE OF PUBLIC HEARING ON  
PROPOSED REPEAL

TO: All Concerned Persons

1. On April 23, 2013, at 2:00 p.m., the Department of Public Service Regulation will hold a public hearing in the Bollinger Room at 1701 Prospect Avenue, Helena, Montana, to consider the proposed repeal of the above-stated rule.

2. The Department of Public Service Regulation will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Service Regulation no later than 5:00 p.m. on April 16, 2013, to advise us of the nature of the accommodation that you need. Please contact Aleisha Solem, Department of Public Service Regulation, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana, 59620-2601; telephone (406) 444-6170; fax (406) 444-7618; TDD/Montana Relay Service (406) 444-4212; or e-mail asolem@mt.gov.

3. The department proposes to repeal the following rule:

38.2.5031 PUBLIC UTILITY EXECUTIVE COMPENSATION (1) If the commission is in possession of executive compensation information, the commission will not afford proprietary, confidential treatment to the compensation of the three highest-paid, Montana-based employees. Total compensation includes, but is not limited to base salary, short-term (annual) incentive plan benefits, long-term incentive plan benefits, stock options, any supplemental benefit plans and perquisites, and compensation from the public utility affiliates of their executive management personnel in Montana. The total compensation information of the three highest-paid, Montana-based utility employees will not be protected from public disclosure through issuance of a protective order by the commission. If a public utility or a public utility employee contends that the circumstances of the privacy of an employee's particular compensation warrants issuance of a protective order despite the wording set forth above, the utility or employee may seek issuance of a protective order and set forth the circumstances that may justify issuance of such an order.

(2) Adoption of this rule does not preclude the commission from seeking and securing other information from regulated businesses.

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-106, 69-3-201, 69-3-203, 69-3-330, MCA

REASON: The Public Service Commission seeks repeal in order to resume its previous practice of considering on a case-by-case basis whether compensation information should be public information or protected as confidential. Through the PSC's protective order procedure set forth in existing administrative rules, public utilities and employees may seek a protective order and the commission will consider each request on a case-by-case basis, weighing the unique factors presented by each case.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Aleisha Solem, Department of Public Service Regulation, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana, 59620-2601; telephone (406) 444-6170; fax (406) 444-7618; or e-mail [asolem@mt.gov](mailto:asolem@mt.gov), and must be received no later than 5:00 p.m., April 26, 2013.

5. The commission, a commissioner, or a duly appointed presiding officer may preside over and conduct the hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in #4 above or may be made by completing a request form at any rules hearing held by the department.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

/s/ JUSTIN KRASKE  
Justin Kraske  
Rule Reviewer

/s/ W.A. (BILL) GALLAGHER  
W.A. (Bill) Gallagher  
Chairman  
Public Service Regulation

Certified to the Secretary of State March 18, 2013.